

**CONFERENCE COMMITTEE REPORT
DIGEST FOR EHB 1525**

Citations Affected: IC 35-44-3-3; IC 35-44-3-9; IC 35-46-1-8.

Synopsis: Resisting law enforcement and trafficking. Conference committee report for EHB 1525. Makes the offense of resisting law enforcement a Class D felony instead of a Class A misdemeanor if, while committing the offense, a person draws or uses a deadly weapon or inflicts bodily injury on another person. Makes the offense a Class C felony if: (1) a person uses a vehicle to flee from a law enforcement officer; or (2) while committing the offense, a person operates a vehicle in a manner that creates a substantial risk of bodily injury to another person or causes serious bodily injury to another person. Provides a defense to the offense of trafficking with an inmate. Provides that certain penal facility employees are entitled to a review of an adverse employment determination based upon trafficking with an inmate. Makes contributing to delinquency a Class C felony instead of a Class A misdemeanor if a person furnishes alcohol or a controlled substance to a minor and consumption of the alcohol or drug is the proximate cause of the death of any person. **(This conference committee report removes provisions concerning ignition interlock devices and probationary driving privileges, and adds the provisions described above concerning: (1) the offense of resisting law enforcement; and (2) the offense of trafficking with an inmate.)**

Effective: January 1, 2001 (retroactive); July 1, 2003.

Adopted

Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill No. 1525 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 35-44-3-3 IS AMENDED TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) A person who knowingly or
- 4 intentionally:
- 5 (1) forcibly resists, obstructs, or interferes with a law enforcement
- 6 officer or a person assisting the officer while the officer is lawfully
- 7 engaged in the execution of ~~his~~ **the law enforcement officer's**
- 8 duties as an officer;
- 9 (2) forcibly resists, obstructs, or interferes with the authorized
- 10 service or execution of a civil or criminal process or order of a
- 11 court; or
- 12 (3) flees from a law enforcement officer after the officer has, by
- 13 visible or audible means, identified himself **or herself** and ordered
- 14 the person to stop;
- 15 commits resisting law enforcement, a Class A misdemeanor, except as
- 16 provided in subsection (b).
- 17 (b) The offense under subsection (a) is a:
- 18 (1) Class D felony if,
- 19 ~~(A) the offense is described in subsection (a)(3) and the person~~

1 uses a vehicle to commit the offense; or

2 ~~(B)~~ while committing any offense described in subsection (a),
 3 the person draws or uses a deadly weapon **or** inflicts bodily
 4 injury on another person; ~~or operates a vehicle in a manner that~~
 5 ~~creates a substantial risk of bodily injury to another person;~~

6 (2) Class C felony if:

7 **(A) the offense is described in subsection (a)(3) and the**
 8 **person uses a vehicle to commit the offense; or**

9 **(B) while committing any offense described in subsection (a),**
 10 **the person operates a vehicle in a manner that:**

11 **(i) creates a substantial risk of bodily injury to another**
 12 **person; or**

13 **(ii) causes serious bodily injury to another person; and**

14 (3) Class B felony if, while committing any offense described in
 15 subsection (a), the person operates a vehicle in a manner that
 16 causes the death of another person.

17 (c) For purposes of this section, a law enforcement officer includes
 18 an alcoholic beverage enforcement officer and a conservation officer
 19 of the department of natural resources.

20 SECTION 2. IC 35-44-3-9, AS AMENDED BY P.L.243-1999,
 21 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JANUARY 1, 2001 (RETROACTIVE)]: Sec. 9. (a) As used in this
 23 section, "juvenile facility" means the following:

24 (1) A secure facility (as defined in IC 31-9-2-114) in which a child
 25 is detained under IC 31 or used for a child awaiting adjudication
 26 or adjudicated under IC 31 as a child in need of services or a
 27 delinquent child.

28 (2) A shelter care facility (as defined in IC 31-9-2-117) in which
 29 a child is detained under IC 31 or used for a child awaiting
 30 adjudication or adjudicated under IC 31 as a child in need of
 31 services or a delinquent child.

32 (b) A person who, without the prior authorization of the person in
 33 charge of a penal facility or juvenile facility knowingly or intentionally:

34 (1) delivers, or carries into the penal facility or juvenile facility
 35 with intent to deliver, an article to an inmate or child of the facility;

36 (2) carries, or receives with intent to carry out of the penal facility
 37 or juvenile facility, an article from an inmate or child of the
 38 facility; or

39 (3) delivers, or carries to a ~~work site~~ **worksite** with the intent to
 40 deliver, alcoholic beverages to an inmate or child of a jail work
 41 crew or community work crew;

42 commits trafficking with an inmate, a Class A misdemeanor. However,
 43 the offense is a Class C felony if the article is a controlled substance or
 44 a deadly weapon.

45 **(c) It is a defense to a charge under subsection (b)(1) that the**
 46 **article delivered to an inmate or child was:**

47 **(1) not contraband (as defined in IC 11-11-2-1) or prohibited**
 48 **property (as defined in IC 11-11-2-1);**

49 **(2) necessary for the health or safety of the inmate or child;**
 50 **and**

51 **(3) delivered because the facility had not provided the inmate**

or child with the article after the inmate, the child, or an employee of the facility requested the article.

SECTION 3. IC 35-46-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) A person **at least** eighteen (18) years of age ~~or older~~ who knowingly or intentionally encourages, aids, induces, or causes a person ~~under less than~~ eighteen (18) years of age to commit an act of delinquency (as defined by IC 31-37-1 or IC 31-37-2) commits contributing to delinquency, a Class A misdemeanor.

(b) However, ~~the an~~ offense **described in subsection (a)** is a Class C felony if:

(1) **the:**

(A) **person knowingly or intentionally furnishes:**

(i) **an alcoholic beverage to a person less than eighteen (18) years of age in violation of IC 7.1-5-7-8 when the person knew or reasonably should have known that the person was less than eighteen (18) years of age; or**

(ii) **a controlled substance (as defined in IC 35-48-1-9) or a drug (as defined in IC 9-13-2-49.1) in violation of Indiana law; and**

(B) **consumption, ingestion, or use of the alcoholic beverage, controlled substance, or drug is the proximate cause of the death of any person; or**

(2) **the person is at least eighteen (18) years of age and knowingly or intentionally encourages, aids, induces, or causes a person less than eighteen (18) years of age to commit an act that would be a felony if committed by an adult under any of the following:**

~~(1)~~ (A) IC 35-48-4-1.

~~(2)~~ (B) IC 35-48-4-2.

~~(3)~~ (C) IC 35-48-4-3.

~~(4)~~ (D) IC 35-48-4-4.

~~(5)~~ (E) IC 35-48-4-4.5.

~~(6)~~ (F) IC 35-48-4-4.6. ~~or~~

~~(7)~~ (G) IC 35-48-4-5.

SECTION 4. [EFFECTIVE JULY 1, 2003] **IC 35-44-3-3 and IC 35-46-1-8, both as amended by this act, apply only to offenses committed after June 30, 2003.**

SECTION 5. [EFFECTIVE JULY 1, 2003] (a) **An employee of a penal facility who was the subject of an adverse employment decision based on a violation of IC 35-44-3-9(b)(1) involving the delivery of an article that was not contraband (as defined in IC 11-11-2-1) or prohibited property (as defined in IC 11-11-2-1) after January 1, 2002, and before July 1, 2003, is entitled to a redetermination of any employment action taken in response to the violation, including but not limited to, a rehearing or reinstatement.**

(b) **This SECTION expires July 1, 2008.**

SECTION 6. **An emergency is declared for this act.**

(Reference is to EHB 1525 as printed April 4, 2003.)

Conference Committee Report
on
Engrossed House Bill 1525

Signed by:

Representative Kuzman
Chairperson

Senator Landske

Representative Duncan

Senator Antich

House Conferees

Senate Conferees